

BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Petition to Revoke
Probation of:

ROXANNE KAY SHAVER
1831 Chapulin Lane
Fallbrook, CA 92028

Registered Nurse License No. 542363

Respondent

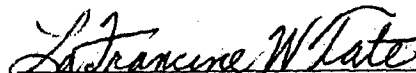
Case No. 2004 - 320

DEFAULT DECISION AND ORDER

The attached Default Decision and Order is hereby adopted by the Board of Registered Nursing, Department of Consumer Affairs, as its Decision in the above entitled matter.

This Decision shall become effective on **May 21, 2008.**

IT IS SO ORDERED **April 21, 2008.**



President
Board of Registered Nursing
Department of Consumer Affairs
State of California

1 EDMUND G. BROWN JR., Attorney General
of the State of California

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Supervising Deputy Attorney General

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9
10 **BEFORE THE**
BOARD OF REGISTERED NURSING
11 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

12 In the Matter of the Petition to Revoke Probation
Against:

Case No. 2004-320

13 **ROXANNE KAY SHAVER, RN**

14 1831 Chapulin Lane

Fallbrook, CA 92028

**DEFAULT DECISION
AND ORDER**

15 Registered Nurse License No. 542363

[Gov. Code, §11520]

16 Respondent.
17

18 **FINDINGS OF FACT**

19 1. On or about September 25, 2007, Complainant Ruth Ann Terry, M.P.H.,
20 R.N., in her official capacity as the Executive Officer of the Board of Registered Nursing, filed
21 Petition to Revoke Probation and Accusation No. 2004-320 against Roxanne Kay Shaver
22 (Respondent) before the Board of Registered Nursing (Board).

23 2. On or about March 31, 1998, the Board issued Registered Nurse License
24 No. 542363 to Respondent. The Registered Nurse License was in full force and effect at all
25 times relevant to the charges brought herein. The License expires on August 31, 2009, unless
26 renewed.

27 3. On or about October 10, 2007, Mona S. Sebastian, an employee of the
28 Department of Justice, served by Certified and First Class Mail a copy of the Petition to Revoke

1 Probation and Accusation No. 2004-320, Statement to Respondent, Notice of Defense, Request
2 for Discovery, and Government Code sections 11507.5, 11507.6, and 11507.7 to Respondent's
3 address of record with the Board, which was and is 1831 Chapulin Lane, Fallbrook, CA 92028.
4 A copy of the Petition to Revoke Probation and Accusation is attached as Exhibit A, and is
5 incorporated herein by reference. At Respondent's request, the documents were re-served at the
6 same address on or about December 7, 2007.

7 4. Service of the Petition to Revoke Probation was effective as a matter of
8 law under the provisions of Government Code section 11505, subdivision (c).

9 5. Government Code section 11506 states, in pertinent part:

10 (c) The respondent shall be entitled to a hearing on the merits if the
11 respondent files a notice of defense, and the notice shall be deemed a specific
12 denial of all parts of the accusation not expressly admitted. Failure to file a notice
of defense shall constitute a waiver of respondent's right to a hearing, but the
agency in its discretion may nevertheless grant a hearing.

13 6. Respondent failed to file a Notice of Defense within 15 days after service
14 upon her of the Petition to Revoke Probation and Accusation, and therefore waived her right to a
15 hearing on the merits of Petition to Revoke Probation and Accusation No. 2004-320.

16 7. California Government Code section 11520 states, in pertinent part:

17 (a) If the respondent either fails to file a notice of defense or to appear at
18 the hearing, the agency may take action based upon the respondent's express
admissions or upon other evidence and affidavits may be used as evidence without
any notice to respondent.

19 8. Pursuant to its authority under Government Code section 11520, the Board
20 finds Respondent is in default. The Board will take action without further hearing and, based on
21 the evidence on file herein, finds that the allegations in Petition to Revoke Probation and
22 Accusation No. 2004-320 are true.

23 DETERMINATION OF ISSUES

24 1. Based on the foregoing findings of fact, Respondent Roxanne Kay Shaver
25 has subjected her Registered Nurse License No. 542363 to discipline.

26 2. A copy of the Petition to Revoke Probation and Accusation is attached.

27 3. The agency has jurisdiction to adjudicate this case by default.
28

4. The Board is authorized to revoke the probation granted effective September 22, 2005, in Accusation Case No. 2004-320 and further authorized to revoke Respondent's Registered Nurse License based upon the following violations alleged in the Petition to Revoke Probation and Accusation:

Probation Violations:

- a. Condition 1 - Failure to obey all laws;
- b. Condition 2 - Failure to comply with the Board probation program;
- c. Condition 5 - Failure to submit written reports;
- d. Condition 15 - Failure to abstain from use of psychotropic (mood-altering drugs); and
- e. Condition 16 - Failure to submit to tests and samples.

Cause for Discipline:

- a. Business and Professions Code section 2762(a) - illegal possession and use of controlled substances (methadone and/or cocaine).

ORDER

IT IS ORDERED that the probation granted in Accusation No. 2004-320,
Registered Nurse License No. 542363 issued to Respondent Roxanne Kay Shaver, is revoked.

IT IS FURTHER ORDERED that Registered Nurse License No. 542363, heretofore issued to Respondent Roxanne Kay Shaver is revoked.

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1 Pursuant to Government Code section 11520, subdivision (c), Respondent may
2 serve a written motion requesting that the Decision be vacated and stating the grounds relied on
3 within seven (7) days after service of the Decision on Respondent. The agency in its discretion
4 may vacate the Decision and grant a hearing on a showing of good cause, as defined in the
5 statute.

6 This Decision shall become effective on MAY 21, 2008.

7 It is so ORDERED APRIL 21, 2008

8 *LaTranene W Tate*
9

10 FOR THE BOARD OF REGISTERED NURSING

11
12 80207649.wpd

13 DOJ docket number:SD2007801916

14 Attachment:

15 Exhibit A: Petition to Revoke Probation and Accusation No. 2004-320
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Exhibit A

Petition to Revoke Probation No. 2004-320

1 EDMUND G. BROWN JR., Attorney General
of the State of California

2 JAMES LEDAKIS

Supervising Deputy Attorney General

3 KATHLEEN B.Y. LAM, State Bar No. 95379

Deputy Attorney General

4 California Department of Justice

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8 Attorneys for Complainant

10 **BEFORE THE**
11 **BOARD OF REGISTERED NURSING**
12 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

13 In the Matter of the Accusation and Petition to
14 Revoke Probation Against:

15 ROXANNE KAY SHAVER

1324 Paraiso Avenue

16 Spring Valley, CA 91977

17 Registered Nurse License No. 542363

18 Respondent.

Case No. 2004-320

**PETITION TO REVOKE
PROBATION AND
ACCUSATION**

20 Complainant alleges:

21 **PARTIES**

22 1. Ruth Ann Terry, M.P.H., R.N. (Complainant) brings this Petition to Revoke
23 Probation solely in her official capacity as the Executive Officer of the Board of Registered
24 Nursing, Department of Consumer Affairs.

25 2. On or about March 31, 1998, the Board of Registered Nursing issued Registered
26 Nurse License No. 542363 to Roxanne Kay Shaver (Respondent). The license expired on
27 August 31, 2007, and has not been renewed.

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1 3. In a disciplinary action entitled "In the Matter of Accusation Against Roxanne
2 Kay Shaver," Case No. 2004-320, the Board of Registered Nursing issued a decision, effective
3 September 22, 2005, in which Respondent's registered nurse license was revoked. However, the
4 revocation was stayed and Respondent's license was placed on probation for a period of three (3)
5 years with certain terms and conditions. A copy of that decision is attached as Exhibit A and is
6 incorporated by reference.

7 **JURISDICTION RE PETITION TO REVOKE PROBATION**

8 4. This Petition to Revoke Probation is brought before the Board of Registered
9 Nursing (Board), Department of Consumer Affairs, under the authority of Business and
10 Professions Code section 2750, which provides, in pertinent part, that the Board may discipline
11 any licensee, including a licensee holding a temporary or an inactive license, for any reason
12 provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

13 5. This Petition to Revoke Probation is also brought pursuant to Board Decision No.
14 2004-320, which provides in pertinent part as follows:

15 "IT IS HEREBY ORDERED that Registered Nurse License No. 542363 issued to
16 Respondent ROXANNE KAY SHAVER is revoked. However, the revocation is stayed and
17 Respondent is placed on probation for three (3) years on the following terms and conditions.

18 "...

19 "11. **Violation of Probation.** If Respondent violates the conditions of her probation,
20 the Board after giving Respondent notice and an opportunity to be heard, may set aside the stay
21 order and impose the stayed discipline (revocation/suspension) of Respondent's license.

22 If during the period of probation, an accusation or petition to revoke probation has been
23 filed against Respondent's license or the Attorney General's Office has been requested to prepare
24 an accusation or petition to revoke probation against Respondent's license, the probationary
25 period shall automatically be extended and shall not expire until the accusation or petition has
26 been acted upon by the Board."

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1 **JURISDICTION RE ACCUSATION**

2 6. This Accusation is brought under the authority of the following sections of the
3 Business & Professions Code:

4 A. Section 2761 of the Code states that the board may discipline the license of a
5 nurse for unprofessional conduct.

6 B. Section 2762 of the Code states in pertinent part:

7 "In addition to other acts constituting unprofessional conduct within the meaning of this
8 chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this
9 chapter to do any of the following:

10 "(a) Obtain or possess in violation of law, or prescribe, or except as directed by a
11 licensed physician and surgeon, dentist, or podiatrist administer to himself or herself, or furnish
12 or administer to another, any controlled substance as defined in Division 10 (commencing with
13 Section 11000) of the Health and Safety Code or any dangerous drug or dangerous device as
14 defined in Section 4022.

15 ". . . ."

16 **DRUGS**

17 7. Cocaine is a Schedule II controlled substance, pursuant to Health & Safety Code
18 section 11055.

19 8. Methadone is a Schedule II controlled substance, pursuant to Health & Safety
20 Code section 11055.

21 **CHARGES AND ALLEGATIONS RE THE PETITION TO REVOKE PROBATION**

22 **FIRST CAUSE TO REVOKE PROBATION**

23 (Obey All Laws)

24 9. At all times after the effective date of Respondent's probation, Condition of the
25 probation order 1 stated:

26 **Obey All Laws.** Respondent shall obey all federal, state and local laws.
27 A full and detailed account of any and all violations of law shall be reported by
28 Respondent to the Board in writing within seventy-two (72) hours of occurrence.
To permit monitoring of compliance with this condition, Respondent shall submit
completed fingerprint forms and fingerprint fees within 45 days of the effective

1 date of the decision, unless previously submitted as part of the licensure
2 application process.

3 10. Respondent's probation is subject to revocation because she failed to comply with
4 Probation Condition 1, referenced above. The facts and circumstances regarding this violation
5 are as follows:

6 A. By her own admission as well as a drug test, Respondent illegally possessed and
7 used cocaine on or about May 31, 2007.

8 B. Respondent tested positive for Methadone on or about June 27, 2006.

9 SECOND CAUSE TO REVOKE PROBATION

10 (Submit Written Reports)

11 11. At all times after the effective date of Respondent's probation, Condition 5 stated:

12 **Submit Written Reports.** Respondent, during the period of probation,
13 shall submit or cause to be submitted such written reports/declarations and
14 verification of actions under penalty of perjury, as required by the Board. These
15 reports/declarations shall contain statements relative to Respondent's compliance
16 with all the conditions of the Board's Probation Program. Respondent shall
17 immediately execute all release of information forms as may be required by the
18 Board or its representatives. Respondent shall provide a copy of this Decision to
19 the nursing regulatory agency in every state and territory in which she has a
20 registered nurse license.

21 12. Respondent's probation is subject to revocation because she failed to comply with
22 Probation Condition 5, referenced above. The facts and circumstances regarding this violation
23 are that Respondent failed to file all quarterly reports as required.

24 THIRD CAUSE TO REVOKE PROBATION

25 (Abstain from Use of Psychotropic (Mood-Altering) Drugs)

26 13. At all times after the effective date of Respondent's probation, Condition 15
27 stated:

28 **Abstain from Use of Psychotropic (Mood-Altering) Drugs.** Respondent
shall completely abstain from the possession, injection or consumption by any
route of all controlled substances and all psychotropic (mood altering) drugs,
including alcohol, except when the same are ordered by a health care professional
legally authorized to do so as part of documented medical treatment. Respondent
shall have sent to the Board, in writing and within fourteen (14) days, by the
prescribing health professional, a report identifying the medication, dosage, the
date the medication was prescribed, the Respondent's prognosis, the date the
medication will no longer be required, and the effect on the recovery plan, if
appropriate.

1 Respondent shall identify for the Board a single physician, nurse
2 practitioner or physician assistant who shall be aware of Respondent's history of
3 substance abuse and will coordinate and monitor any prescriptions for Respondent
4 for dangerous drugs, controlled substances or mood-altering drugs. The
5 coordinating physician, nurse practitioner, or physician assistant shall report to the
6 Board on a quarterly basis Respondent's compliance with this condition. If any
7 substances considered addictive have been prescribed, the report shall identify a
8 program for the time limited use of any such substances.

9 The Board may require the single coordinating physician, nurse
10 practitioner, or physician assistant to be a specialist in addictive medicine, or to
11 consult with a specialist in addictive medicine.

12 14. Respondent's probation is subject to revocation because she failed to comply with
13 Probation Condition 15, referenced above. The facts and circumstances regarding this violation
14 are as follows: by her own admission as well as a drug test, Respondent illegally possessed and
15 used cocaine and methadone, as more particularly alleged above and incorporated herein by
16 reference.

17 FIFTH CAUSE TO REVOKE PROBATION

18 (Submit to Tests and Samples)

19 15. At all times after the effective date of Respondent's probation, Condition 16
20 stated:

21 **Submit to Tests and Samples.** Respondent, at her expense, shall
22 participate in a random, biological fluid testing or a drug screening program which
23 the Board approves. The length of time and frequency will be subject to approval
24 by the Board. Respondent is responsible for keeping the Board informed of
25 Respondent's current telephone number at all times. Respondent shall also ensure
26 that messages may be left at the telephone number when she is not available and
27 ensure that reports are submitted directly by the testing agency to the Board, as
28 directed. Any confirmed positive finding shall be reported immediately to the
Board by the program and Respondent shall be considered in violation of
probation.

In addition, Respondent, at any time during the period of probation, shall
fully cooperate with the Board or any of its representatives, and shall, when
requested, submit to such tests and samples as the Board or its representatives
may require for the detection of alcohol, narcotics, hypnotics, dangerous drugs, or
other controlled substances.

If Respondent has a positive drug screen for any substance not legally
authorized and not reported to the coordinating physician, nurse practitioner, or
physician assistant, and the Board files a petition to revoke probation or an
accusation, the Board may suspend Respondent from practice pending the final
decision on the petition to revoke probation or the accusation. This period of
suspension will not apply to the reduction of this probationary time period.

1 If Respondent fails to participate in a random, biological fluid testing or
2 drug screening program within the specified time frame, Respondent shall
3 immediately cease practice and shall not resume practice until notified by the
4 Board. After taking into account documented evidence of mitigation, if the Board
5 files a petition to revoke probation or an accusation, the Board may suspend
6 Respondent from practice pending the final decision on the petition to revoke
7 probation or the accusation. This period of suspension will not apply to the
8 reduction of this probationary time period.

9 16. Respondent's probation is subject to revocation because she failed to comply with
10 Probation Condition 16, referenced above. The facts and circumstances regarding this violation
11 are as follows: Respondent repeatedly either failed to test when required or tested "out-of-range"
12 due to abnormal creatinine levels, which skew drug testing. When asked to have a doctor verify
13 a medical condition causing the abnormal creatinine levels in order to rule out Respondent's
14 intentional attempts to "beat" the drug testing, Respondent never complied.

15 SIXTH CAUSE TO REVOKE PROBATION

16 (Comply With Board's Probation Program)

17 17. At all times after the effective date of Respondent's probation, Condition 2 stated:

18 **Comply with the Board's Probation Program.** Respondent shall fully
19 comply with the conditions of the Probation Program established by the Board
20 and cooperate with representatives of the Board in its monitoring and
21 investigation of the Respondent's compliance with the Board's Probation
22 Program. Respondent shall inform the Board in writing within no more than
23 15 days of any address change and shall at all times maintain an active, current
24 license status with the Board, including during any period of suspension. Upon
25 successful completion of probation, Respondent's license shall be fully restored.

26 18. Respondent's probation is subject to revocation because she failed to comply with
27 Probation Condition 2, referenced above. Respondent has failed to comply with probationary
28 conditions 1, 5, 15 and 16, as more particularly alleged above and incorporated herein by
reference.

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1 CHARGES AND ALLEGATIONS RE THE ACCUSATION

2 CAUSE FOR DISCIPLINE

3 (Unprofessional Conduct: Illegal Possession and Use of Controlled Substances)

4 19. Respondent has subjected her license to discipline under Code section 2761 in
5 conjunction with Code section 2762(a) due to her illegal use of methadone and/or cocaine, as
6 more particularly alleged above and incorporated herein by reference.


7 PRAYER

8 WHEREFORE, Complainant requests that a hearing be held on the matters herein
9 alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

10 1. Revoking the probation that was granted by the Board of Registered Nursing in
11 Case No. 2004-320 and imposing the disciplinary order that was stayed thereby revoking
12 Registered Nurse License No. 542363 issued to Roxanne Kay Shaver.

13 2. Taking such other and further action as deemed necessary and proper.

14
15 DATED: 9/25/07.

16
17
18 
19 RUTH ANN TERRY, M.P.H., R.N.
20 Executive Officer
21 Board of Registered Nursing
22 Department of Consumer Affairs
23 State of California
24 Complainant

25
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27
28
SD2007801916

Exhibit B
Decision and Order
Case No. 2004-320

**BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

ROXANNE KAY SHAVER
1324 Paraiso Avenue
Spring Valley, CA 91977

Registered Nurse License No. 542363

Respondent.

Case No. 2004-320

OAH No. L-2004060344

DECISION AND ORDER

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Registered Nursing as its Decision in this matter.

This Decision shall become effective on September 22, 2005.

It is so ORDERED August 23, 2005.



FOR THE BOARD OF REGISTERED NURSING

1 BILL LOCKYER, Attorney General
of the State of California
2 KATHLEEN B.Y. LAM, State Bar No. 95379
Deputy Attorney General
3 California Department of Justice
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Facsimile: (619) 645-2061
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8 Attorneys for Complainant

9 **BEFORE THE**
BOARD OF REGISTERED NURSING
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Accusation Against:

Case No. 2004-320

12 ROXANNE KAY SHAVER
1324 Paraiso Avenue
13 Spring Valley, CA 91977

OAH No. L-2204060344

14 Registered Nurse License No. 542363

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

15 Respondent.
16

17 In the interest of a prompt and speedy settlement of this matter, consistent with the
18 public interest and the responsibility of the Board of Registered Nursing, the parties hereby agree
19 to the following Stipulated Settlement and Disciplinary Order which will be submitted to the
20 Board for approval and adoption as the final disposition of the Accusation.

21 **PARTIES**

22 1. Ruth Ann Terry, M.P.H., R.N. ("Complainant") is the Executive Officer of
23 the Board of Registered Nursing. She brought this action solely in her official capacity and is
24 represented in this matter by Bill Lockyer, Attorney General of the State of California, by
25 Kathleen B.Y. Lam, Deputy Attorney General.

26 2. Respondent ROXANNE KAY SHAVER ("Respondent") is representing
27 herself in this proceeding and has chosen not to exercise her right to be represented by counsel.

28 ///

3. On or about March 31, 1998, the Board of Registered Nursing issued Registered Nurse License No. 542363 to ROXANNE KAY SHAVER ("Respondent"). The license was in full force and effect at all times relevant to the charges brought in Accusation No. 2004-320 and will expire on August 21, 2005, unless renewed.

JURISDICTION

4. Accusation No. 2004-320 was filed before the Board of Registered Nursing, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on May 20, 2004. Respondent timely filed her Notice of Defense contesting the Accusation. A copy of Accusation No. 2004-320 is attached as Exhibit "A" and incorporated herein by reference.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read, and understands the charges and allegations in Accusation No. 2004-320. Respondent has also carefully read, and understands the effects of this Stipulated Settlement and Disciplinary Order.

6. Respondent is fully aware of her legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to be represented by counsel at her own expense; the right to confront and cross-examine the witnesses against her; the right to present evidence and to testify on her own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

CULPABILITY

8. Respondent admits the truth of each and every charge and allegation in Accusation No. 2004-320.

9. Respondent agrees that her Registered Nurse License is subject to discipline and she agrees to be bound by the Board of Registered Nursing's imposition of

1 discipline as set forth in the Disciplinary Order below.

2 CONTINGENCY

3 10. The parties understand and agree that facsimile copies of this Stipulated
4 Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same
5 force and effect as the originals.

6 11. In consideration of the foregoing admissions and stipulations, the parties
7 agree that the Board may, without further notice or formal proceeding, issue and enter the
8 following Disciplinary Order:

9 DISCIPLINARY ORDER

10 IT IS HEREBY ORDERED that Registered Nurse License No. 542363 issued to
11 Respondent ROXANNE KAY SHAVER is revoked. However, the revocation is stayed and
12 Respondent is placed on probation for three (3) years on the following terms and conditions.

13 **Severability Clause.** Each condition of probation contained herein is a separate
14 and distinct condition. If any condition of this Order, or any application thereof, is declared
15 unenforceable in whole, in part, or to any extent, the remainder of this Order, and all other
16 applications thereof, shall not be affected. Each condition of this Order shall separately be valid
17 and enforceable to the fullest extent permitted by law.

18 1. **Obey All Laws.** Respondent shall obey all federal, state and local laws.
19 A full and detailed account of any and all violations of law shall be reported by Respondent to
20 the Board in writing within seventy-two (72) hours of occurrence. To permit monitoring of
21 compliance with this condition, Respondent shall submit completed fingerprint forms and
22 fingerprint fees within 45 days of the effective date of the decision, unless previously submitted
23 as part of the licensure application process.

24 **Criminal Court Orders:** If Respondent is under criminal court orders, including
25 probation or parole, and the order is violated, this shall be deemed a violation of these probation
26 conditions, and may result in the filing of an accusation and/or petition to revoke probation.

27 2. **Comply with the Board's Probation Program.** Respondent shall fully
28 comply with the conditions of the Probation Program established by the Board and cooperate

1 with representatives of the Board in its monitoring and investigation of the Respondent's
2 compliance with the Board's Probation Program. Respondent shall inform the Board in writing
3 within no more than 15 days of any address change and shall at all times maintain an active,
4 current license status with the Board, including during any period of suspension.

5 Upon successful completion of probation, Respondent's license shall be fully
6 restored.

7 **3. Report in Person.** Respondent, during the period of probation, shall
8 appear in person at interviews/meetings as directed by the Board or its designated
9 representatives.

10 **4. Residency, Practice, or Licensure Outside of State.** Periods of
11 residency or practice as a registered nurse outside of California shall not apply toward a reduction
12 of this probation time period. Respondent's probation is tolled, if and when she resides outside
13 of California. Respondent must provide written notice to the Board within 15 days of any change
14 of residency or practice outside the state, and within 30 days prior to re-establishing residency or
15 returning to practice in this state.

16 Respondent shall provide a list of all states and territories where she has ever been
17 licensed as a registered nurse, vocational nurse, or practical nurse. Respondent shall further
18 provide information regarding the status of each license and any changes in such license status
19 during the term of probation. Respondent shall inform the Board if she applies for or obtains a
20 new nursing license during the term of probation.

21 **5. Submit Written Reports.** Respondent, during the period of probation,
22 shall submit or cause to be submitted such written reports/declarations and verification of actions
23 under penalty of perjury, as required by the Board. These reports/declarations shall contain
24 statements relative to Respondent's compliance with all the conditions of the Board's Probation
25 Program. Respondent shall immediately execute all release of information forms as may be
26 required by the Board or its representatives.

27 Respondent shall provide a copy of this Decision to the nursing regulatory agency
28 in every state and territory in which she has a registered nurse license.

1 6. **Function as a Registered Nurse.** Respondent, during the period of
2 probation, shall engage in the practice of registered nursing in California for a minimum of 24
3 hours per week for 6 consecutive months or as determined by the Board.

4 For purposes of compliance with the section, "engage in the practice of registered
5 nursing" may include, when approved by the Board, volunteer work as a registered nurse, or
6 work in any non-direct patient care position that requires licensure as a registered nurse.

7 The Board may require that advanced practice nurses engage in advanced practice
8 nursing for a minimum of 24 hours per week for 6 consecutive months or as determined by the
9 Board.

10 If Respondent has not complied with this condition during the probationary term,
11 and Respondent has presented sufficient documentation of her good faith efforts to comply with
12 this condition, and if no other conditions have been violated, the Board, in its discretion, may
13 grant an extension of Respondent's probation period up to one year without further hearing in
14 order to comply with this condition. During the one year extension, all original conditions of
15 probation shall apply.

16 7. **Employment Approval and Reporting Requirements.** Respondent
17 shall obtain prior approval from the Board before commencing or continuing any employment,
18 paid or voluntary, as a registered nurse. Respondent shall cause to be submitted to the Board all
19 performance evaluations and other employment related reports as a registered nurse upon request
20 of the Board.

21 Respondent shall provide a copy of this Decision to her employer and immediate
22 supervisors prior to commencement of any nursing or other health care related employment.

23 In addition to the above, Respondent shall notify the Board in writing within
24 seventy-two (72) hours after she obtains any nursing or other health care related employment.
25 Respondent shall notify the Board in writing within seventy-two (72) hours after she is
26 terminated or separated, regardless of cause, from any nursing, or other health care related
27 employment with a full explanation of the circumstances surrounding the termination or
28 separation.

1 8. **Supervision.** Respondent shall obtain prior approval from the Board
2 regarding Respondent's level of supervision and/or collaboration before commencing or
3 continuing any employment as a registered nurse, or education and training that includes patient
4 care.

5 Respondent shall practice only under the direct supervision of a registered nurse
6 in good standing (no current discipline) with the Board of Registered Nursing, unless alternative
7 methods of supervision and/or collaboration (e.g., with an advanced practice nurse or physician)
8 are approved.

9 Respondent's level of supervision and/or collaboration may include, but is not
10 limited to the following:

11 (a) Maximum - The individual providing supervision and/or collaboration is
12 present in the patient care area or in any other work setting at all times.

13 (b) Moderate - The individual providing supervision and/or collaboration is in
14 the patient care unit or in any other work setting at least half the hours Respondent works.

15 (c) Minimum - The individual providing supervision and/or collaboration has
16 person-to-person communication with Respondent at least twice during each shift worked.

17 (d) Home Health Care - If Respondent is approved to work in the home health
18 care setting, the individual providing supervision and/or collaboration shall have person-to-
19 person communication with Respondent as required by the Board each work day. Respondent
20 shall maintain telephone or other telecommunication contact with the individual providing
21 supervision and/or collaboration as required by the Board during each work day. The individual
22 providing supervision and/or collaboration shall conduct, as required by the Board, periodic, on-
23 site visits to patients' homes visited by Respondent with or without Respondent present.

24 9. **Employment Limitations.** Respondent shall not work for a nurse's
25 registry, in any private duty position as a registered nurse, a temporary nurse placement agency, a
26 traveling nurse, or for an in-house nursing pool.

27 Respondent shall not work for a licensed home health agency as a visiting nurse
28 unless the registered nursing supervision and other protections for home visits have been

1 approved by the Board. Respondent shall not work in any other registered nursing occupation
2 where home visits are required.

3 Respondent shall not work in any health care setting as a supervisor of registered
4 nurses. The Board may additionally restrict Respondent from supervising licensed vocational
5 nurses and/or unlicensed assistive personnel on a case-by-case basis.

6 Respondent shall not work as a faculty member in an approved school of nursing
7 or as an instructor in a Board approved continuing education program.

8 Respondent shall work only on a regularly assigned, identified and predetermined
9 worksite(s) and shall not work in a float capacity.

10 If Respondent is working or intends to work in excess of 40 hours per week, the
11 Board may request documentation to determine whether there should be restrictions on the hours
12 of work.

13 10. **Complete a Nursing Course(s).** Respondent, at her own expense, shall
14 enroll and successfully complete a course(s) relevant to the practice of registered nursing no later
15 than six months prior to the end of her probationary term.

16 Respondent shall obtain prior approval from the Board before enrolling in the
17 course(s). Respondent shall submit to the Board the original transcripts or certificates of
18 completion for the above required course(s). The Board shall return the original documents to
19 Respondent after photocopying them for its records.

20 11. **Violation of Probation.** If Respondent violates the conditions of her
21 probation, the Board after giving Respondent notice and an opportunity to be heard, may set
22 aside the stay order and impose the stayed discipline (revocation/suspension) of Respondent's
23 license.

24 If during the period of probation, an accusation or petition to revoke probation has
25 been filed against Respondent's license or the Attorney General's Office has been requested to
26 prepare an accusation or petition to revoke probation against Respondent's license, the
27 probationary period shall automatically be extended and shall not expire until the accusation or
28 petition has been acted upon by the Board.

1 12. **License Surrender.** During Respondent's term of probation, if she ceases
2 practicing due to retirement, health reasons or is otherwise unable to satisfy the conditions of
3 probation, Respondent may surrender her license to the Board. The Board reserves the right to
4 evaluate Respondent's request and to exercise its discretion whether to grant the request, or to
5 take any other action deemed appropriate and reasonable under the circumstances, without
6 further hearing. Upon formal acceptance of the tendered license and wall certificate, Respondent
7 will no longer be subject to the conditions of probation.

8 Surrender of Respondent's license shall be considered a disciplinary action and
9 shall become a part of Respondent's license history with the Board. A registered nurse whose
10 license has been surrendered may petition the Board for reinstatement no sooner than the
11 following minimum periods from the effective date of the disciplinary decision:

12 (1) Two years for reinstatement of a license that was surrendered for any
13 reason other than a mental or physical illness; or

14 (2) One year for a license surrendered for a mental or physical illness.

15 13. **Physical Examination.** Within 45 days of the effective date of this
16 Decision, Respondent, at her expense, shall have a licensed physician, nurse practitioner, or
17 physician assistant, who is approved by the Board before the assessment is performed, submit an
18 assessment of the Respondent's physical condition and capability to perform the duties of a
19 registered nurse. Such an assessment shall be submitted in a format acceptable to the Board. If
20 medically determined, a recommended treatment program will be instituted and followed by the
21 Respondent with the physician, nurse practitioner, or physician assistant providing written
22 reports to the Board on forms provided by the Board.

23 If Respondent is determined to be unable to practice safely as a registered nurse,
24 the licensed physician, nurse practitioner, or physician assistant making this determination shall
25 immediately notify the Board and Respondent by telephone, and the Board shall request that the
26 Attorney General's office prepare an accusation or petition to revoke probation. Respondent
27 shall immediately cease practice and shall not resume practice until notified by the Board.
28 During this period of suspension, Respondent shall not engage in any practice for which a license

1 issued by the Board is required until the Board has notified Respondent that a medical
2 determination permits Respondent to resume practice. This period of suspension will not apply
3 to the reduction of this probationary time period.

4 If Respondent fails to have the above assessment submitted to the Board within
5 the 45-day requirement, Respondent shall immediately cease practice and shall not resume
6 practice until notified by the Board. This period of suspension will not apply to the reduction of
7 this probationary time period. The Board may waive or postpone this suspension only if
8 significant, documented evidence of mitigation is provided. Such evidence must establish good
9 faith efforts by Respondent to obtain the assessment, and a specific date for compliance must be
10 provided. Only one such waiver or extension may be permitted.

11 **14. Participate in Treatment/Rehabilitation Program for Chemical**
12 **Dependence.** Respondent, at her expense, shall successfully complete during the probationary
13 period or shall have successfully completed prior to commencement of probation a Board-
14 approved treatment/rehabilitation program of at least six months duration. As required, reports
15 shall be submitted by the program on forms provided by the Board. If Respondent has not
16 completed a Board-approved treatment/rehabilitation program prior to commencement of
17 probation, Respondent, within 45 days from the effective date of the decision, shall be enrolled in
18 a program. If a program is not successfully completed within the first nine months of probation,
19 the Board shall consider Respondent in violation of probation.

20 Based on Board recommendation, each week Respondent shall be required to
21 attend at least one, but no more than five 12-step recovery meetings or equivalent (e.g., Narcotics
22 Anonymous, Alcoholics Anonymous, etc.) and a nurse support group as approved and directed
23 by the Board. If a nurse support group is not available, an additional 12-step meeting or
24 equivalent shall be added. Respondent shall submit dated and signed documentation confirming
25 such attendance to the Board during the entire period of probation. Respondent shall continue
26 with the recovery plan recommended by the treatment/rehabilitation program or a licensed
27 mental health examiner and/or other ongoing recovery groups.

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1 **15. Abstain from Use of Psychotropic (Mood-Altering) Drugs.** Respondent
2 shall completely abstain from the possession, injection or consumption by any route of all
3 controlled substances and all psychotropic (mood altering) drugs, including alcohol, except when
4 the same are ordered by a health care professional legally authorized to do so as part of
5 documented medical treatment. Respondent shall have sent to the Board, in writing and within
6 fourteen (14) days, by the prescribing health professional, a report identifying the medication,
7 dosage, the date the medication was prescribed, the Respondent's prognosis, the date the
8 medication will no longer be required, and the effect on the recovery plan, if appropriate.

9 Respondent shall identify for the Board a single physician, nurse practitioner or
10 physician assistant who shall be aware of Respondent's history of substance abuse and will
11 coordinate and monitor any prescriptions for Respondent for dangerous drugs, controlled
12 substances or mood-altering drugs. The coordinating physician, nurse practitioner, or physician
13 assistant shall report to the Board on a quarterly basis Respondent's compliance with this
14 condition. If any substances considered addictive have been prescribed, the report shall identify a
15 program for the time limited use of any such substances.

16 The Board may require the single coordinating physician, nurse practitioner, or
17 physician assistant to be a specialist in addictive medicine, or to consult with a specialist in
18 addictive medicine.

19 **16. Submit to Tests and Samples.** Respondent, at her expense, shall
20 participate in a random, biological fluid testing or a drug screening program which the Board
21 approves. The length of time and frequency will be subject to approval by the Board.
22 Respondent is responsible for keeping the Board informed of Respondent's current telephone
23 number at all times. Respondent shall also ensure that messages may be left at the telephone
24 number when she is not available and ensure that reports are submitted directly by the testing
25 agency to the Board, as directed. Any confirmed positive finding shall be reported immediately
26 to the Board by the program and Respondent shall be considered in violation of probation.

27 In addition, Respondent, at any time during the period of probation, shall fully
28 cooperate with the Board or any of its representatives, and shall, when requested, submit to such

1 tests and samples as the Board or its representatives may require for the detection of alcohol,
2 narcotics, hypnotics, dangerous drugs, or other controlled substances.

3 If Respondent has a positive drug screen for any substance not legally authorized
4 and not reported to the coordinating physician, nurse practitioner, or physician assistant, and the
5 Board files a petition to revoke probation or an accusation, the Board may suspend Respondent
6 from practice pending the final decision on the petition to revoke probation or the accusation.
7 This period of suspension will not apply to the reduction of this probationary time period.

8 If Respondent fails to participate in a random, biological fluid testing or drug
9 screening program within the specified time frame, Respondent shall immediately cease practice
10 and shall not resume practice until notified by the Board. After taking into account documented
11 evidence of mitigation, if the Board files a petition to revoke probation or an accusation, the
12 Board may suspend Respondent from practice pending the final decision on the petition to
13 revoke probation or the accusation. This period of suspension will not apply to the reduction of
14 this probationary time period.

15 17. **Mental Health Examination.** Respondent shall, within 45 days of the
16 effective date of this Decision, have a mental health examination including psychological testing
17 as appropriate to determine her capability to perform the duties of a registered nurse. The
18 examination will be performed by a psychiatrist, psychologist or other licensed mental health
19 practitioner approved by the Board. The examining mental health practitioner will submit a
20 written report of that assessment and recommendations to the Board. All costs are the
21 responsibility of Respondent. Recommendations for treatment, therapy or counseling made as a
22 result of the mental health examination will be instituted and followed by Respondent.

23 If Respondent is determined to be unable to practice safely as a registered nurse,
24 the licensed mental health care practitioner making this determination shall immediately notify
25 the Board and Respondent by telephone, and the Board shall request that the Attorney General's
26 office prepare an accusation or petition to revoke probation. Respondent shall immediately cease
27 practice and may not resume practice until notified by the Board. During this period of
28 suspension, Respondent shall not engage in any practice for which a license issued by the Board

1 is required, until the Board has notified Respondent that a mental health determination permits
2 Respondent to resume practice. This period of suspension will not apply to the reduction of this
3 probationary time period.

4 If Respondent fails to have the above assessment submitted to the Board within
5 the 45-day requirement, Respondent shall immediately cease practice and shall not resume
6 practice until notified by the Board. This period of suspension will not apply to the reduction of
7 this probationary time period. The Board may waive or postpone this suspension only if
8 significant, documented evidence of mitigation is provided. Such evidence must establish good
9 faith efforts by Respondent to obtain the assessment, and a specific date for compliance must be
10 provided. Only one such waiver or extension may be permitted.

11 **18. Therapy or Counseling Program.** Respondent, at her expense, shall
12 participate in an on-going counseling program until such time as the Board releases her from this
13 requirement and only upon the recommendation of the counselor. Written progress reports from
14 the counselor will be required at various intervals.

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1 ACCEPTANCE

2 I have carefully read the Stipulated Settlement and Disciplinary Order. I
3 understand the stipulation and the effect it will have on my Registered Nurse License. I enter
4 into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently,
5 and agree to be bound by the Decision and Order of the Board of Registered Nursing.

6 DATED: 5/2/05.

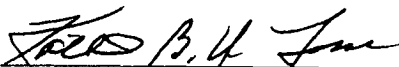
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8 
9 ROXANNE KAY SHAVER
Respondent

10
11
12 ENDORSEMENT

13 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully
14 submitted for consideration by the Board of Registered Nursing.

15
16 DATED: 5/20/05.

17
18 BILL LOCKYER, Attorney General
19 of the State of California

20 
21 KATHLEEN B.Y. LAM
22 Deputy Attorney General

23 Attorneys for Complainant

24 DOJ Matter ID: SD2003AD0141
25 70019961.wpd
26 Rev. 4/27/05
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28

Exhibit A

Accusation No. 2004-320

1 BILL LOCKYER, Attorney General
of the State of California
2 KATHLEEN B.Y. LAM, State Bar No. 95379
Deputy Attorney General
3 California Department of Justice
110 West "A" Street, Suite 1100
4 San Diego, CA 92101

5 P.O. Box 85266
San Diego, CA 92186-5266
6 Telephone: (619) 645-2091
Facsimile: (619) 645-2061

7 Attorneys for Complainant
8

9 **BEFORE THE**
BOARD OF REGISTERED NURSING
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 2004-320

13 ROXANNE KAY SHAVER
1831 Chapulin Lane
14 Fallbrook, CA 92028

A C C U S A T I O N

15 Registered Nurse License No. 542363

16 Respondent.
17

18 Ruth Ann Terry, M.P.H., R.N., ("Complainant") alleges:

19 PARTIES

20 1. She brings this Accusation solely in her official capacity as the Executive
21 Officer of the Board of Registered Nursing, Department of Consumer Affairs.

22 2. On or about March 31, 1998, the Board of Registered Nursing issued
23 Registered Nurse License Number 542363 to ROXANNE KAY SHAVER ("Respondent"). The
24 license expires on August 31, 2005, unless renewed.

25 JURISDICTION

26 3. This Accusation is brought before the Board of Registered Nursing
27 ("Board"), Department of Consumer Affairs, under the authority of the following laws. All
28 section references are to the Business and Professions Code unless otherwise indicated.

1 4. Section 2750 of the Code states:

2 "Every certificate holder or licensee, including licensees holding temporary
3 licenses, or licensees holding licenses placed in an inactive status, may be disciplined as provided
4 in this article [Article 3 of the Nursing Practice Act (Bus. & Prof Code, § 2700 et seq.)]. As
5 used in this article, "license" includes certificate, registration, or any other authorization to
6 engage in practice regulated by this chapter. The proceedings under this article shall be
7 conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division
8 3 of Title 2 of the Government Code [the Administrative Procedure Act], and the board shall
9 have all the powers granted therein."

10 5. Section 2761 of the Code states:

11 "The board may take disciplinary action against a certified or licensed nurse or
12 deny an application for a certificate or license for any of the following:

13 " . . .

14 "(f) Conviction of a felony or of any offense substantially related to the
15 qualifications, functions, and duties of a registered nurse, in which event the record of the
16 conviction shall be conclusive evidence thereof."

17 6. Section 2762 of the Code states:

18 "In addition to other acts constituting unprofessional conduct within the meaning
19 of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed
20 under this chapter to do any of the following:

21 "(a) Obtain or possess in violation of law, or prescribe, or except as directed by a
22 licensed physician and surgeon, dentist, or podiatrist administer to himself or herself, or furnish
23 or administer to another, any controlled substance as defined in Division 10 (commencing with
24 Section 11000) of the Health and Safety Code or any dangerous drug or dangerous device as
25 defined in Section 4022.

26 " . . .

27 "(c) Be convicted of a criminal offense involving the prescription, consumption,
28 or self-administration of any of the substances described in subdivisions (a) and (b) of this

1 section, or the possession of, or falsification of a record pertaining to, the substances described in
2 subdivision (a) of this section, in which event the record of the conviction is conclusive evidence
3 thereof."

4 7. Section 2764 of the Code provides, in pertinent part, that the expiration of
5 a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding
6 against the licensee or to render a decision imposing discipline on the license.

7 8. Section 490 of the Code states:

8 "A board may suspend or revoke a license on the ground that the licensee has been
9 convicted of a crime, if the crime is substantially related to the qualifications, functions, or duties
10 of the business or profession for which the license was issued. A conviction within the meaning
11 of this section means a plea or verdict of guilty or a conviction following a plea of nolo
12 contendere. Any action which a board is permitted to take following the establishment of a
13 conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has
14 been affirmed on appeal, or when an order granting probation is made suspending the imposition
15 of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the
16 Penal Code."

17 9. Section 492 of the Code states:

18 "Notwithstanding any other provision of law, successful completion of any
19 diversion program under the Penal Code, or successful completion of an alcohol and drug
20 problem assessment program under Article 5 (commencing with section 23249.50) of Chapter 12
21 of Division 11 of the Vehicle Code, shall not prohibit any agency established under Division 2
22 ([Healing Arts] commencing with Section 500) of this code, or any initiative act referred to in
23 that division, from taking disciplinary action against a licensee or from denying a license for
24 professional misconduct, notwithstanding that evidence of that misconduct may be recorded in a
25 record pertaining to an arrest.

26 "This section shall not be construed to apply to any drug diversion program
27 operated by any agency established under Division 2 (commencing with Section 500) of this
28 code, or any initiative act referred to in that division."

1 10. Section 493 of the Code states:

2 "Notwithstanding any other provision of law, in a proceeding conducted by a
3 board within the department pursuant to law to deny an application for a license or to suspend or
4 revoke a license or otherwise take disciplinary action against a person who holds a license, upon
5 the ground that the applicant or the licensee has been convicted of a crime substantially related to
6 the qualifications, functions, and duties of the licensee in question, the record of conviction of the
7 crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact,
8 and the board may inquire into the circumstances surrounding the commission of the crime in
9 order to fix the degree of discipline or to determine if the conviction is substantially related to the
10 qualifications, functions, and duties of the licensee in question.

11 "As used in this section, 'license' includes 'certificate,' 'permit,' 'authority,' and
12 'registration.'"

13 11. Section 125.3 of the Code provides, in pertinent part, that the Board may
14 request the administrative law judge to direct a licentiate found to have committed a violation or
15 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
16 and enforcement of the case.

17 12. California Code of Regulations, title 16, section 1444, states:

18 "A conviction or act shall be considered to be substantially related to the
19 qualifications, functions or duties of a registered nurse if to a substantial degree it evidences the
20 present or potential unfitness of a registered nurse to practice in a manner consistent with the
21 public health, safety, or welfare. Such convictions or acts shall include but not be limited to the
22 following:

23 "(a) Assaultive or abusive conduct including, but not limited to, those violations
24 listed in subdivision (d) of Penal Code Section 11160.

25 "(b) Failure to comply with any mandatory reporting requirements.

26 "(c) Theft, dishonesty, fraud, or deceit.

27 "(d) Any conviction or act subject to an order of registration pursuant to Section
28 290 of the Penal Code."

1 DRUGS

2 13. "Hydrocodone" is a Schedule II controlled substance pursuant to Health
3 and Safety Code section 11055(b)(1)(J) and a dangerous drug pursuant to Business and
4 Professions Code section 4022(c). "Vicodin" is a trade name for the narcotic substance
5 "Hydrocodone."

6 CAUSE FOR DISCIPLINE

7 (Conviction Of Crime)

8 14. Respondent is subject to disciplinary action under sections 2761(f),
9 2762(a), 2762(c), and 493 in that on or about March 21, 2003, Respondent was convicted of a
10 crime substantially related to the qualifications, functions or duties of a registered nurse. The
11 circumstances are as follows:

12 a. On or about March 21, 2003, Respondent pled guilty to a violation of
13 Health and Safety Code section 11173(a) (Ct. 1 - obtaining prescription for Hydrocodone by
14 fraud or deceit) in *People of the State of California v. Roxanne K. Shaver*, San Diego County,
15 East County Division, Superior Court Case No. CE 227699. As part of the plea bargain, Counts
16 2 (Penal Code section 459 - burglary) and 3 (Business and Professions Code section
17 4060 - possession of controlled substance [Hydrocodone] without prescription) were dismissed .

18 b. On or about March 21, 2003, Respondent was ordered to participate in San
19 Diego County's Drug Court Program.

20 c. The circumstances leading up to the conviction are that on or about
21 January 17, 2003, Respondent phoned in a false prescription for Vicodin and attempted to pick
22 up the medication at the Vons Pharmacy in Spring Valley, California.

23 PRAYER

24 WHEREFORE, Complainant requests that a hearing be held on the matters herein
25 alleged, and that following the hearing, the Board of Registered Nursing issue a decision:


26 1. Revoking or suspending Registered Nurse License Number 542363, issued
27 to ROXANNE KAY SHAVER.

28 ///

1 2. Ordering ROXANNE KAY SHAVER to pay the Board of Registered
2 Nursing the reasonable costs of the investigation and enforcement of this case, pursuant to
3 Business and Professions Code section 125.3;

4 3. Taking such other and further action as deemed necessary and proper.
5

6 DATED: 5/11/04
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9 
RUTH ANN TERRY
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
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11

12 Complainant
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14 SD2003AD0141 5/4/2004
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